

R E S O L U T I O N

WHEREAS, Vincent D. Palumbo is the owner of a 112.75-acre parcel of land known as Parcels 3, 104 and 63, Tax Map 151 in Grid F-4, said property being in the 5th Election District of Prince George's County, Maryland, and being zoned R-L; and

WHEREAS, on July 10, 2006, Chesapeake Custom Homes filed an application for approval of a Preliminary Subdivision Plan (Staff Exhibit #1) for 85 lots and 6 parcels; and

WHEREAS, the application for approval of the aforesaid Preliminary Subdivision Plan, also known as Preliminary Plan 4-06069 for Belle Oak Estates was presented to the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission by the staff of the Commission on January 11, 2007, for its review and action in accordance with Article 28, Section 7-116, Annotated Code of Maryland and the Regulations for the Subdivision of Land, Subtitle 24, Prince George's County Code; and

WHEREAS, the staff of The Maryland-National Capital Park and Planning Commission recommended DISAPPROVAL of the application with conditions; and

WHEREAS, on January 11, 2007, the Prince George's County Planning Board heard testimony and received evidence submitted for the record on the aforesaid application.

NOW, THEREFORE, BE IT RESOLVED, that pursuant to the provisions of Subtitle 24, Prince George's County Code, the Prince George's County Planning Board APPROVED Preliminary Plan of Subdivision 4-06069, Belle Oak Estates for Lots 1-85 and Parcels A-F with the following conditions:

1. Prior to signature of the Preliminary Plan, the Preliminary Plan and TCPI shall be revised to show the upper level 65 dBA noise contour associated with traffic generated noise from Berry Road and determined by the applicant's study.
2. At time of final plat, a conservation easement shall be described by bearings and distances. The conservation easement shall contain the expanded stream buffers, excluding those areas where variation requests have been approved, and be reviewed by the Environmental Planning Section prior to certification. The following note shall be placed on the plat:

"Conservation easements described on this plat are areas where the installation of structures and roads and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is allowed."

3. Prior to the issuance of any permits which impact jurisdictional wetlands, wetland buffers, streams or Waters of the U.S., the applicant shall submit copies of all federal and state wetland permits, evidence that approval conditions have been complied with, and associated mitigation

plans.

4. The following note shall be placed on the Final Plat of Subdivision:

“Development is subject to restrictions shown on the approved Type I Tree Conservation Plan (TCPI/87/95-01), or as modified by the Type II Tree Conservation Plan, and precludes any disturbance or installation of any structure within specific areas. Failure to comply will mean a violation of an approved Tree Conservation Plan and will make the owner subject to mitigation under the Woodland Conservation Woodland Conservation Ordinance. This property is subject to the notification provisions of CB-60-2005. Copies of all approved Tree Conservation Plans for the subject property are available in the offices of the Maryland-National Capital Park and Planning Commission, Prince George's County Planning Department, Environmental Planning Section, 4th floor, County Administration Building, 14741 Governor Oden Bowie Drive, Upper Marlboro, Maryland.”

5. A minimum 40 foot-wide easement adjacent to the 10-foot public utility easement along Bealle Hill Road shall be shown on the final plat as a scenic easement and the following note shall be placed on the plats:

"Scenic easements described on this plat are areas where the installation of structures and the removal of vegetation are prohibited without prior written consent from the M-NCPPC Planning Director or designee. The removal of hazardous trees, limbs, branches, or trunks is permitted."

6. The preliminary plan shall be revised to reflect the P-501 facility along the frontage of the subject property. The right-of-way dedication on this plan shall demonstrate 60 feet of right-of-way adjacent to Lot 7 of Eschinger. Either side of Lot 7 the right-of-way may transition back to a more conventional dedication of 30 feet from the property line.

7. **Menk Road:** Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the county's capital program, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:

- a. Provide needed improvements along Menk Road to allow two-way traffic per DPW&T standards, and provide needed lighting at the MD 373/Menk Road intersection.

8. **MD 210 at MD 373:** Prior to the issuance of any building permits within the subject property, the following road improvements shall (a) have full financial assurances through either private money or full funding in the county's capital program, (b) have been permitted for construction through the operating agency's access permit process, and (c) have an agreed-upon timetable for construction with the appropriate operating agency:

- a. Provide a right-turn lane, a through lane, and a double left-turn lane along the westbound

approach to the MD 373/MD 210 intersection.

9. Prior to the issuance of the first building permit for the Belle Oak Estates subdivision, the applicant, his heirs, successors or assigns shall:
 - a. Transfer ownership of Parcels B, D and F to The Archeological Conservancy in order to provide for the perpetual protection of this portion of Archeological Site 18PR290 (including Locus 1). This transfer acknowledges: (1) the existing right-of-way to the Bellevue Historic Site (84-020) that traverses Parcel F; and (2) the 100' limit of disturbance line within Parcel E along the northern property boundary with the Bellevue Historic Site (84-020).
 - b. Transfer ownership of Parcels C and E to the owner of the Bellevue Historic Site (84-020) in order to provide for the perpetual protection of that portion of Archeological Site 18PR290 known as Locus 2, and to ensure its continued association and conveyance with the Historic Site.
10. Prior to signature approval of the preliminary plan of subdivision, the applicant shall obtain signature approval of the approved Comprehensive Design Plan (CDP-9503).
11. A Type II tree conservation plan shall be approved at the time of approval of the SDP.
12. The applicant, his successors, and/or assigns, shall provide adequate, private recreational facilities in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*.
13. The applicant shall allocate appropriate and developable areas for the private recreational facilities on Home Owners Association (HOA) open space land. The private recreational facilities shall be reviewed by the Urban Design Review Section of DRD for adequacy and property siting, prior to approval of the preliminary plan by the Planning Board.
14. A site plan shall be submitted to the Development Review Division (DRD) of the Prince George's County Planning Department, which complies with the standards outlined in the *Parks and Recreation Facilities Guidelines*.
15. Submission of three original, executed Recreational Facilities Agreements (RFA) to the DRD for their approval, three weeks prior to a submission of a final plat. Upon approval by the DRD, the RFA shall be recorded among the land records of Prince George's County, Upper Marlboro, Maryland.
16. Submission to the DRD of a performance bond, letter of credit or other suitable financial guarantee, in an amount to be determined by the DRD, within at least two weeks prior to applying for building permits.

17. The developer, his successor and/or assigns shall satisfy the Planning Board that there are adequate provisions to assure retention and a future maintenance of the proposed recreational facilities.
18. The land to be conveyed to a Homeowner's Association shall be subject to the following:
 - a. Conveyance shall take place prior to the issuance of building permits.
 - b. A copy of unrecorded, special warranty deed for the property to be conveyed shall be submitted to the Subdivision Section of the Development Review Division (DRD), Upper Marlboro, along with the final plat.
 - c. All waste matter of any kind shall be removed from the property, prior to conveyance, and all disturbed areas shall have a full stand of grass or other vegetation upon completion of any phase, section or the entire project.
 - d. The conveyed land shall not suffer the disposition of construction materials, soil filling, discarded plant materials, refuse or similar waste matter.
 - e. Any disturbance of land to be conveyed to a Homeowner's Association shall be in accordance with an approved Specific Design Plan or shall require the written consent of the DRD. This shall include, but not be limited to: the location of sediment control measures, tree removal, temporary or permanent stormwater management facilities, utility placement and storm drain outfalls. If such proposals are approved, a written agreement and financial guarantee shall be required to warrant restoration, repair or improvements, required by the approval process.
 - f. Storm drain outfalls shall be designed to avoid adverse impacts on land to be conveyed to a Homeowner's Association. The location and design of drainage outfalls that adversely impact property to be conveyed shall be reviewed and approved by DRD prior to the issuance of grading or building permits.
 - g. Temporary or permanent use of land to be conveyed to a Homeowner's Association for stormwater management shall be approved by DRD.
 - h. Storm drain outfalls shall be designed to avoid adverse impacts on adjacent land, owned by or to be conveyed to the Maryland-National Capital Park and Planning Commission (M-NCPPC). If the outfalls require drainage improvements on land to be conveyed to or owned the M-NCPPC, the Department of Parks and Recreation (DPR) shall review and approve the location and design of these facilities. DPR may require a performance bond and easement agreement prior to issuance of grading permits.
 - i. There shall be no disturbance of any adjacent land that is owned by, or to be conveyed to the M-NCPPC, without the review and approval of DPR.

- j. The Planning Board or its designee shall be satisfied that there are adequate provisions to assure retention and future maintenance of the property to be conveyed.

BE IT FURTHER RESOLVED, that the findings and reasons for the decision of the Prince George's County Planning Board are as follows:

1. The subdivision, as modified, meets the legal requirements of Subtitles 24 and 27 of the Prince George's County Code and of Article 28, Annotated Code of Maryland.
2. The site is located on the north side of Berry Road, southeast of Manning Road East, and west of Bealle Hill Road. The site is undeveloped and predominately wooded. The surrounding properties are zoned R-R and R-A and are developed with single-family residences. The Bellevue National Historic Site is surrounded on three sides by the subject property. A long driveway to the historic site bisects the northern portion of the property.
3. **Development Data Summary**—The following information relates to the subject preliminary plan application and the proposed development.

	EXISTING	PROPOSED
Zone	R-L & R-A	R-L (As R-A)
Uses	Vacant	Single-Family Residences
Acreage	R-L: 101.44 R-A: 11.31 Total: 112.75	R-L: 101.44 R-A: 11.31 Total: 112.75
Lots	0	85
Parcels	3	6
Outlots	0	0
Dwelling Units	0	85
Public Safety Mitigation Fee		No

4. **Environmental**— The Environmental Planning Section previously reviewed applications A-9874 and CDP-9503 for the subject property. A Type I Tree Conservation Plan, TCPI/87/95, was approved with CDP-9503.

There are streams, wetlands and 100-year floodplains and associated areas of steep slopes with highly erodible soils and areas of severe slopes on the property. Berry Road, a designated expressway, is an adjacent source of traffic-generated noise. The proposed development is not a noise generator. According to the "Prince George's County Soil Survey" the principal soils on the site are in the Aura, Beltsville, Bibb, Chillum, Croom, Iuka, Leonardtown, Mattapex, and Sunnyside series; however, portions of the site were mined for sand and gravel after the publication of the "Prince George's County Soil Survey". Marlboro clay does not occur in this area. According to information obtained from the Maryland Department of Natural Resources

Natural Heritage Program, there are no rare, threatened, or endangered species found to occur in the vicinity of this property. Bealle Hill Road is a designated historic road. This property is located in the Mattawoman Creek watershed in the Potomac River basin. The site is in the Developing Tier according to the adopted General Plan.

Soils

According to the "Prince George's County Soil Survey" the principal soils on the site are in the Aura, Beltsville, Bibb, Chillum, Croom, Iuka, Leonardtown, Mattapex, and Sunnyside series; however, portions of the site were mined for sand and gravel after the publication of the "Prince George's County Soil Survey".

Maps prepared by the Maryland Geological Survey indicate other portions of the property that were mined before 1973. These gravel pit areas are of concern. Due to the unknown nature of the soils and the limitations associated with these areas, a Soils Report addressing the soil structure, soil characteristics and foundation stability needs to be submitted. The soils report is required in order to allow analysis of the site with regard to the required findings of Section 24-131 of the Subdivision Regulations.

A Preliminary Geotechnical Report, dated July 30, 2003, was submitted with the application and an addendum was received on March 3, 2006. The report notes an area of 6.5 to more than 10 feet of fill associated with the former sand and gravel pit. The report notes that the existing fill materials are not suitable to serve as pavement subgrades and should be removed and replaced with controlled fill.

Noise

Berry Road, a designated expressway, is an adjacent source of traffic-generated noise. For residential uses, outdoor activity areas must have noise levels of 65 dBA Ldn or less to be in conformance with Maryland standards. The outdoor activity areas on the impacted lots are the areas within 40 feet of the rears of the affected houses. The interiors of all structures must have noise levels of 45 dBA Ldn or less to be in conformance with state standards. The model used by the Environmental Planning Section is not an appropriate model to predict the location of the 65 dBA Ldn noise contour because it does not account for the type of topography on this site. The unmitigated 65 dBA Ldn ground level noise contours and the 65 dBA Ldn upper level noise contours must be shown on the Preliminary Plan and the Type I Tree Conservation Plan.

The lower level 65 dBA Ldn noise contour based upon a study prepared by the applicant is shown on the TCPI and the Preliminary Plan. Based upon the layout shown on the TCPI, there will be no significant impact from traffic-generated noise on any of the proposed outdoor activity areas. The upper level 65 dBA Ldn noise contour is not shown on the TCPI or the Preliminary Plan. Based upon the layout shown on the TCPI, there will be significant impact from traffic-generated noise on the upper levels of proposed Lots 2-8, Block A; however, this can be mitigated with use of proper building materials.

Natural Resources Inventory

An approved Natural Resources Inventory (NRI), NRI/110/05, was submitted with the application. There are streams, wetlands and 100-year floodplain on the property. A Wetland Delineation Report and certified copy of a Jurisdictional Determination are included in the NRI. The 100-year floodplain is based upon a floodplain study, FPS #200454, prepared by the Prince George's County Department of Environmental Resources. The NRI shows all sensitive environmental features and buffers required by Section 24-130 of the Subdivision Regulations.

The Forest Stand Delineation (FSD) indicates 17 forest stands totaling 111.90 acres and 28 specimen trees. The high number of forest stands is related to changes in land use. In 1938 much of the property was in agricultural use and the only significant woodland areas were associated with the stream valleys. By 1965 large areas had become woodland after the agricultural use was abandoned and a portion of the site was being actively mined for sand and gravel. The 1993 air photo shows that there were no active agricultural uses and the former fields and gravel pit site had reverted to woodland. The priority woodlands on the site are those associated with the stream valleys. The woodlands are associated with the former mining area contains Virginia pines that are subject to windfall.

The Subregion V Master Plan indicates that there are substantial areas designated as Natural Reserve on the site. As noted on page 136 of the Subregion V Master Plan:

“The Natural Reserve Area is composed of areas having physical features which exhibit severe constraints to development or which are important to sensitive ecological systems. Natural Reserve Areas must be preserved in their natural state.”

The Subregion V Master Plan elaborates on page 139:

“The Natural Reserve Areas, containing floodplain and other areas unsuitable for development should be restricted from development except for agricultural, recreational and other similar uses. Land grading should be discouraged. When disturbance is permitted, all necessary conditions should be imposed.”

For the purposes of this review, the Natural Reserve includes all expanded stream buffers and isolated wetlands and their buffers. The Natural Reserve contains the same areas that are Regulated Areas as designated by the Green Infrastructure Plan.

The expanded stream buffers, as delineated on the NRI, are correctly shown on the Preliminary Plan and the TCPI.

Environmental Impacts

Impacts to significant environmental features that are required to be protected by Section 24-130

of the Subdivision Regulations are proposed. The design should avoid any impacts to streams, wetlands or their associated buffers unless the impacts are essential for the development as a whole. Staff will generally not support impacts to sensitive environmental features that are not associated with essential development activities. Essential development includes such features as public utility lines [including sewer and stormwater outfalls], street crossings, and so forth, which are mandated for public health and safety; non-essential activities are those, such as grading for lots, stormwater management ponds, parking areas, and so forth, which can be designed to eliminate the impacts. Impacts to sensitive environmental features require approved variation requests to the Subdivision Regulations.

Five proposed impacts are described in the variation request dated October 11, 2006. Proposed impacts "A" and "E" are to expanded stream buffers for stormdrain outfalls. Proposed impacts "C", "D" and "E" are for the connection of the proposed subdivision to an existing sanitary sewer lines that are wholly within expanded stream buffers.

Section 24-113 of the Subdivision Regulations contains four required findings [text in bold] to be made before a variation can be granted. All nine impacts are discussed together because they are similar in nature.

Where the Planning Board finds that extraordinary hardship or practical difficulties may result from strict compliance with this Subtitle and/or that the purposes of this Subtitle may be served to a greater extent by an alternative proposal, it may approve variations from these Subdivision Regulations so that substantial justice may be done and the public interest secured, provided that such variation shall not have the effect of nullifying the intent and purpose of this Subtitle; and further provided that the Planning Board shall not approve variations unless it shall make findings based upon evidence presented to it in each specific case that:

- (1) The granting of the variation request would not be detrimental to public safety, health or welfare and does not injure other property;**

The installation of the stormwater management outfalls are required by the Prince George's County Department of Public Works and Transportation to provide for public safety, health and welfare. County Code requires that sanitary sewer and public water serve the proposed development. All designs of these types of facilities are reviewed by the appropriate agency to ensure compliance with the regulations. These regulations require that the designs are not injurious to other property.

- (2) The conditions on which the variations are based are unique to the property for which the variation is sought and are not applicable generally to other properties;**

The specific topography of the site requires the use of the stormwater management outfalls shown on the plans to adequately serve the proposed development. The existing sanitary sewers are wholly within expanded stream buffers.

(3) The variation does not constitute a violation of any other applicable law, ordinance or regulation; and

The installation of stormwater management outfalls and connection to the existing sanitary sewer are required by other regulations. Because the applicant will have to obtain permits from other local, state and federal agencies as required by their regulations, the approval of this variation request would not constitute a violation of other applicable laws.

(4) Because of the peculiar physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulation is carried out.

The topography provides no alternative for the location of the stormwater outfalls that are required to serve the development. The only existing sanitary sewers to serve this property are wholly within expanded stream buffers. Without the required stormwater management facilities or sanitary sewer connections, the property could not be properly developed in accordance with the R-A zoning.

The Environmental Planning Section supports the variation requests for the reasons stated above.

Woodland Conservation

The property is subject to the requirements of the Prince George's County Woodland Conservation and Tree Preservation Ordinance because the site has a previously approved Type I Tree Conservation Plan. The TCPI submitted with this application is a major revision to the previously approved plan because it contains less area and proposes a significantly different development concept.

The Type I Tree Conservation Plan, TCPI/87/95-01, has been reviewed. The revised Type I Tree Conservation Plan proposes clearing 53.62 acres of the existing 90.96 acres of upland woodland, clearing 0.37 acres of the existing 20.94 acres of woodland within the 100-year floodplain and no clearing of woodland off-site. The woodland conservation threshold for the site is 25.72 acres and the woodland conservation requirement, based upon the proposed clearing, is 39.50 acres. The plan proposes to meet the requirement by providing 31.58 acres of on-site preservation and 7.92 acres of off-site conservation for a total of 39.50 acres. An additional 5.76 acres of woodland will be preserved on-site but not part of any requirement.

The woodlands associated with the former mining area contain Virginia pines that are subject to windfall; however, the TCPI shows the clearing of almost all of this problem area.

Because the site is almost entirely forested, it is not possible to develop the site and meet all required woodland conservation on-site. Meeting the threshold on-site is acceptable. The

woodland conservation areas shown meet the intent of the Woodland Conservation Ordinance and the Green Infrastructure Plan by preserving almost all of the sensitive environmental features on the site and avoid forest fragmentation.

Historic Roads

Bealle Hill Road is a designated historic road. Development will have to conform to Design Guidelines and Standards for Scenic and Historic Roads. A visual inventory was not submitted; however, the appropriate treatment for development along this type of roadway has been established during the approval of recent subdivisions. The Preliminary Plan and Type I Tree Conservation Plan show a 40-foot scenic easement adjacent and contiguous to the proposed 10-foot public utility easement along the land to be dedicated for Bealle Hill Road. These easements will serve to preserve the scenic nature of these roads.

Water and Sewer Categories

The water and sewer service categories are W-4 and S-4 in accordance with Council Resolution CR-21-2006 (December 2005 Cycle of Amendments, May 2, 2006), and will, therefore, be served by public systems.

5. **Community Planning**—The subject property is located in Planning Area 84 / Accokeek and is within the limits of the 1993 *Approved Master Plan for Subregion V which recommends a Large-lot/alternative low-density residential development at up to 0.9 dwelling units per acre*, such as the applicant is proposing. The master plan also shows Manning Road (P-501) to provide a through connection from its existing terminus at Menk Road to Accokeek Road to provide an alternative connection to the major highway network. Only half of the master plan road extension is shown on the application.

The 2002 General Plan locates the property in the Developing Tier. The vision for the Developing Tier is to maintain a pattern of low- to moderate-density suburban residential communities, distinct commercial centers, and employment areas that are increasingly transit serviceable.

6. **Parks and Recreation**— In accordance with Section 24-134(a) of the Prince Georges County Subdivision Regulations lots 1-3 of Block A, Lots 8-9 of Block B, Lot 4 of Block D and Lots 9, 12 & 13 of Block F of the subject subdivision are exempt from Mandatory Dedication of Parkland requirements because the lots are over 1 acre in size.

In accordance with Section 24-134(a) of the Prince Georges County Subdivision Development Division of the Department of Parks and Recreation recommends to the Planning Board that the applicant, his successors, and/or assigns, shall provide adequate, private recreational facilities in accordance with the standards outlined in the *Parks and Recreation Facilities Guidelines*.

7. **Trails**— The Adopted and Approved Subregion V Master Plan recommends a stream valley trail along Mattawoman Creek. This planned stream valley trail is part of the proposed trail network

for Southern Prince George's County and will connect to stream valley trails along Piscataway Creek and Tinkers Creek to the north, as well as on-road bikeways and side paths.

Sections of the Mattawoman Creek Trail are approved for construction as part of development proposals west of the subject site (the Homeland development, 4-02124 and CDP-0203). In addition to trail construction, the provision of a trailhead facility is required on the Homeland site. However, the acquisition of additional land along Mattawoman Creek is necessary for the continued implementation and expansion of the stream valley trail. The ultimate alignment of the stream valley trail has not been determined. However, it appears likely that it will occur off the subject site. Staff defers to the Department of Parks and Recreation regarding the necessity of park dedication. Additional studies may need to be done to determine an appropriate alignment of the trail and the safest method of going under or across Berry Road.

Sidewalk Connectivity

Existing roads in the vicinity of the subject site are open section with no sidewalks. This includes Manning Road, Menk Road, and Bealle Hill Road, which abut the subject site, and Rollingtree Road, which is shown continuing onto the subject property. Due to this and the low density nature of the proposed subdivision, no internal sidewalks are recommended.

8. **Transportation**— The applicant prepared a traffic study dated September 11, 2006 based on counts taken in February 2006. It is not apparent that this study was referred to the Transportation Planning Section. In all likelihood, it appears that the initial plan for this case that went to the Subdivision Review Committee proposed 42 lots, and on that basis a prior study dated February 20, 2006 and reviewed in support of 4-05098 (a prior application on this site) was indicated to be sufficient. On the basis of that comment, it is possible that the revised study was not deemed necessary for referral. Even though the 85-lot plan was referred, the transportation staff considered that plan to be a “concept” since the official description of the application continued to state that 42 lots was the proposal, and a revised study was never requested.

The 42-lot study dated February 20, 2006 was referred to the County Department of Public Works and Transportation (DPW&T) and the Maryland State Highway Administration (SHA), and the comments from these agencies are attached. This circumstance becomes complex because the study proposes mitigation in accordance with Section 24-124(a)(6). Nonetheless, the roadway improvements in the February 20 and the September 11 studies are identical. In particular, the Transportation Facilities Mitigation Plan (TFMP) at MD 210 and MD 373 is unchanged between the two traffic studies. SHA and DPW&T must be given the opportunity to review the TFMP – and they were through their review of the February 20 study. Procedurally, the transportation staff would want to give the agencies the opportunity to review each traffic study in the context of the actual application. However, the issue of the lack of review of the September 11 study arose beyond the time that the study could have been referred. Legally, the agencies reviewed the TFMP in the February 20 study. It is the TFMP, and not the overall study, that is the focus of the specific requirements within the Guidelines for Mitigation Action (which were approved by the District Council as CR-23-1994). Therefore, the findings and

recommendations outlined below are based upon a review of these materials and analyses conducted by the staff of the Transportation Planning Section, consistent with the *Guidelines for the Analysis of the Traffic Impact of Development Proposals*.

Growth Policy - Service Level Standards

The subject property is in the developing tier, as defined in the General Plan for Prince George's County. As such, the subject property is evaluated according to the following standards:

Links and signalized intersections: Level-of-service (LOS) D, with signalized intersections operating at a critical lane volume (CLV) of 1,450 or better is required in the developing tier.

Unsignalized intersections: The Highway Capacity Manual procedure for unsignalized intersections is not a true test of adequacy but rather an indicator that further operational studies need to be conducted. Vehicle delay in any movement exceeding 50.0 seconds is deemed to be an unacceptable operating condition at unsignalized intersections. In response to such a finding, the Planning Board has generally recommended that the applicant provide a traffic signal warrant study and install the signal (or other less costly warranted traffic controls) if deemed warranted by the appropriate operating agency.

Staff Analysis of Traffic Impacts

The intersection of MD 210 and MD 373, along with the unsignalized intersection of MD 373 and Menk Road, are determined to be the critical intersections for the subject property. The existing conditions at the study intersections are summarized below:

EXISTING TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)
MD 210 and MD 373	1,386	1,626	D F
MD 373 and Menk Road	9.9*	10.2*	-- --
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as "+999" suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.			

There are no funded capital projects within the study area in the either County Capital Improvement Program or the State Consolidated Transportation Program that would affect the critical intersections. Thirteen approved but unbuilt developments that would directly affect the critical intersections were identified. Annual through traffic growth of 2.5 percent per year was added to account for development and traffic growth in the general area. With background growth added, the following results are obtained:

BACKGROUND TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)
MD 210 and MD 373	1,625	1,914	F F
MD 373 and Menk Road	10.0*	10.3*	-- --
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.			

With the development of 85 single family detached residences, the site would generate 64 AM (13 in and 51 out) and 76 PM (51 in and 25 out) peak hour vehicle trips. The site was analyzed with the following trip distribution:

65% - North along MD 210
5% - Southwest along MD 210
15% - Southeast along MD 228
15% - Northeast along MD 373/Livingston Road

Given this trip generation and distribution, the impact of the proposal has been analyzed. With the site added to the local roadway network, the following results are obtained:

TOTAL TRAFFIC CONDITIONS			
Intersection	Critical Lane Volume (AM & PM)		Level of Service (LOS, AM & PM)
MD 210 and MD 373	1,663	1,915	F F
MD 373 and Menk Road	11.7*	13.9*	-- --
*In analyzing unsignalized intersections, average vehicle delay for various movements through the intersection is measured in seconds of vehicle delay. The numbers shown indicate the greatest average delay for any movement within the intersection. According to the <i>Guidelines</i> , delay exceeding 50.0 seconds indicates inadequate traffic operations. Values shown as “+999” suggest that the parameters are beyond the normal range of the procedure, and should be interpreted as a severe inadequacy.			

At the MD 210 and MD 373 intersection, the applicant has proposed the use of mitigation in accordance with Section 24-124(a)(6). The Subdivision Ordinance indicates that “consideration of certain mitigating actions is appropriate...” in accordance with the Guidelines for Mitigation Action and the requirements of that portion of Section 24-124. The applicant proposes to employ mitigation by means of criterion (d) in the Guidelines for Mitigation Action, which were approved by the District Council as CR-29-1994. Criterion (d) allows mitigation at intersections along MD 210 outside of the Beltway (among other facilities), and was not superceded by the

approval of the 2002 *Prince George's County General Plan*.

At the MD 210 and MD 373 intersection, the applicant recommends to the westbound approach of MD 373 (i.e., the east leg of the intersection) to mitigate the impact of the applicant's development in accordance with the provisions of Sec. 24-124(a)(6). These improvements would involve widening the westbound approach to provide double left-turn lanes, an exclusive through lane, and a right-turn lane.

The impact of the mitigation actions at this intersection is summarized as follows:

IMPACT OF MITIGATION					
Intersection		LOS and CLV (AM & PM)		CLV Difference (AM & PM)	
MD 210/MD 373					
Background Conditions		F/1625	F/1914		
Total Traffic Conditions		F/1663	F/1915	+38	+1
Total Traffic Conditions w/Mitigation		E/1464	F/1789	-199	-126

As the CLV at MD 210/MD 373 is between 1,450 and 1,813 during the AM peak hour, the proposed mitigation action must mitigate at least 150 percent of the trips generated by the subject property, according to the Guidelines. The above table indicates that the proposed mitigation action would mitigate 518 percent of site-generated trips during the AM peak hour. Similarly, as the CLV at MD 210/MD 373 is greater than 1,813 during the PM peak hour, the proposed mitigation action must mitigate at least 100 percent of the trips generated by the subject property during each peak hour and bring the CLV to no greater than 1,813, according to the *Guidelines*. The above table indicates that the proposed mitigation action would mitigate more than 100 percent of site-generated trips and bring the CLV below 1,813 in the PM peak hour. **Therefore, the proposed mitigation at MD 210 and MD 373 meets the requirements of Section 24-124(a)(6)(B)(i) of the Subdivision Ordinance in considering traffic impacts.**

It is noted that the MD 373 and Menk Road intersection operates acceptably as an unsignalized intersection under existing and future traffic.

SHA and DPW&T both reviewed the traffic study and the TFMP. DPW&T did not indicate concern with the TFMP at MD 210 and MD 373. That agency's comments indicated that Menk Road was substandard, and would be required to be upgraded, with lighting added at the MD 373 intersection. The indication that Menk Road would be required to be upgraded to support truck traffic was initially unclear, since the proposed use of this site is not a truck generator nor would Menk Road be used as a truck route. It was verbally clarified that the intent was to allow construction vehicles.

SHA concurred that the improvements in the TFMP would mitigate the site traffic impact at the MD 210/MD 373 intersection.

The *Subregion V Master Plan* shows several master plan roads surrounding this site. MD 228 (E-7 on the master plan) is a planned expressway facility with a minimum required ROW width of 250 feet. Sufficient right-of-way exists, and no further dedication along E-7 is required. To the east is Bealle Hill Road (P-500), and no further dedication is required along Bealle Hill Road.

To the northwest of this site, the *Subregion V Master Plan* shows Manning Road (P-501) with a minimum ROW of 60 feet. Dedication of 60 feet from the baseline of Manning Road or P-501 will be required. Given that Manning Road is intended to provide a future primary street connection to MD 373, it is recommended that the plan be revised to indicate a baseline. Adjacent to Lot 7 of Eschinger Subdivision, there appears to be an existing right-of-way for Manning Road approximately 35 feet in width. It is recommended that the right-of-way dedication on this plan be transitioned to complete the 60 feet adjacent to Lot 7 of Eschinger. Either side of Lot 7 the right-of-way can be transitioned back to a more conventional dedication of 30 feet from the property line. By demonstrating the 60-foot dedication adjacent to Lot 7, it will allow the completion of the primary street connection in the future without having the residence on Lot 7 become a constraint. This comment was made at the Subdivision Review Committee meeting of July 28, 2006, and has not been addressed even in a minimal way. This is essential in the long-term; Menk Road is a substandard street within a substandard right-of-way, and this subdivision should not be approved without ultimate plans for a primary street connection to MD 373. The master plan foresaw this need, and Section 24-121(a)(5) indicates that the plat (and presumably all plans that preceded it) shall conform to the area master plan.

Transportation Staff Conclusions

The Transportation Planning Section concludes that adequate transportation facilities would exist to serve the proposed subdivision as required under Section 24-124 of the Prince George's County Code if the application is approved with conditions consistent with the preceding findings.

9. **Schools**—The Historic Preservation and Public Facilities Planning Section has reviewed this preliminary plan for impact of school facilities in accordance with Section 24-122.02 of the Subdivision Regulations, CB-30-2003, and CR-23-2003 and concluded the following:

Finding

Impact on Affected Public School Clusters

Affected School Clusters #	Elementary School Cluster 6	Middle School Cluster 3	High School Cluster 3
Dwelling Units	85 sfd	85 sfd	85 sfd
Pupil Yield Factor	0.24	0.06	0.12
Subdivision Enrollment	20.4	5.1	10.2
Actual Enrollment	3,946	5,489	9,164
Completion Enrollment	121	64	127
Cumulative Enrollment	16.8	108.78	217.56
Total Enrollment	4,104.28	5,668.88	9,518.76
State Rated Capacity	4,033	6,114	7,792
Percent Capacity	101.76%	92.71%	128.33%

Source: Prince George's County Planning Department, M-NCPPC, December 2004

County Council bill CB-31-2003 establishes a school facilities surcharge in the amounts of: \$7,000 per dwelling if a building is located between I- 495 and the District of Columbia; \$7,000 per dwelling if the building is included within a basic plan or conceptual site plan that abuts an existing or planned mass transit rail station site operated by the Washington Metropolitan Area Transit Authority; or \$12,000 per dwelling for all other buildings. Council bill CB-31-2003 allows for these surcharges to be adjusted for inflation and the current amounts are \$7,671 and \$13,151 to be paid at the time of issuance of each building permit.

The school surcharge may be used for the construction of additional or expanded school facilities and renovations to existing school buildings or other systemic changes.

The Historic Preservation and Public Facilities Planning Section staff finds that this project meets the adequate public facilities policies for school facilities contained in Section 24-122.02, CB-30- 2003, CB-31-2003, and CR-23-2003.

10. **Fire and Rescue**—The Historic Preservation and Public Facilities Planning Section has reviewed this subdivision plan for fire and rescue services in accordance with Section 24-122.01(d) and Section 24-122.01(e)(1)(B)-(E) of the Subdivision Ordinance.

The Prince George's County Planning Department has determined that this preliminary plan is within the required seven-minute response time for the first due fire station Accokeek, Company 24, using the Seven-Minute Travel Times and Fire Station Locations Map provided by the Prince George's County Fire Department.

Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

The Fire Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

11. **Police Facilities**—The preliminary plan is located in Police District IV. The response standard is 10 minutes for emergency calls and 25 minutes for nonemergency calls. The times are based on a rolling average for the preceding 12 months. The preliminary plan was accepted for processing by the Planning Department on July 10, 2006.

Reporting Cycle	Date	Emergency Calls	Nonemergency
Acceptance Date	06/05/05-06/05/06	10.00	23.00
Cycle 1			
Cycle 2			
Cycle 3			

The response time standards of 10 minutes for emergency calls and 25 minutes for nonemergency calls were met on June 5, 2006. Pursuant to CR-69-2006, the Prince George's County Council and the County Executive suspended the provisions of Section 24-122.01(e)(1)(A, B) regarding sworn police and fire and rescue personnel staffing levels.

The Police Chief has reported that the department has adequate equipment to meet the standards stated in CB-56-2005.

12. **Health Department**—The Environmental Engineering Program has reviewed the preliminary plan of subdivision and had no comments.
13. **Stormwater Management**—The Department of Environmental Resources (DER), Development Services Division, has determined that on-site stormwater management is required. A stormwater management concept plan has been approved for the site, CSD #40912-2004-00. Development must be in accordance with that approved plan to ensure that development of this site does not result in on-site or downstream flooding.
14. **Historic**— The Historic Preservation Commission reviewed an earlier preliminary plan, substantially based on the subject application, at its July 19, 2005 meeting. The current application includes several revisions to that plan and additional building lots, but these revisions and lots do not substantively impact the applicant's treatment of the property's identified archeological resources. Therefore, the findings, conclusions and recommendations from the 2005 review still apply, and have been revised to reference the details of the current plan.

Background

The subject Preliminary Plan of subdivision includes approximately 112.75 acres south of Livingston Road, East of Bealle Hill Road and north of Berry Road near the Prince George's/Charles County boundary. The developing property surrounds on three sides (north, west and south) the Bellevue Historic Site (#84-020) located at 200 Manning Road East, Accokeek. The Historic Site, which is accessed from the north by a long, unpaved lane, currently includes a largely wooded 5.1 acre Environmental Setting (Parcel 195, Tax Map 161). Bellevue is also listed in the National Register of Historic Places.

Bellevue, built c.1840, is a Tidewater-form frame plantation house with a side-hall and double-parlor plan and Greek Revival-style interior trim. The house is notable for its exterior brick chimneys and pent and its attached kitchen wing probably built at the same time as the main block. The house was built for local planter John H. Hardisty and is an important example of the types of houses associated with successful early 19th century plantations in the county. The house was built soon after Hardisty's purchase of a 450-acre farm in 1839. This land had been part of two early land patents, Strife and Ridge and the identification of the property as Bellevue dates to Hardisty's purchase.

Findings

Archeology

The applicant has conducted investigations of the property in an effort to determine the location and existence of historic graveyards and other features of potential archeological interest. Three archeological studies have been completed to date by Applied Archaeology and History Associates, Inc.: a Phase IA-archeological archival study was completed in June 2004; Phase IB-survey excavations were completed in July and August 2004; and more extensive Phase II archeological excavations were completed in June 2005.

- (1) The Phase IA background investigation consisted of archival research and a walkover of the property. The Phase IA investigation concluded that there was a high probability for prehistoric period archeological resources, and for historic period archeological resources. The Phase IA research found that a number of outbuildings were noted in the early deeds, and that deeds dating to the 19th century noted exceptions for two graveyards totaling ½ acre. One deed noted separate cemeteries for whites and "colored." According to the Phase IA report, "No exact location within the property was noted in any of the available deeds, so it is possible that both or neither of these cemeteries, likely associated with the Hardesty family and/or their workforce, could be located within the Study Area." A Phase IB (including subsurface archeological testing) was recommended by the consultant.
- (2) The Phase IB archeological investigation was completed in July and August 2004. The purpose was to identify any archeological sites within the parcel. The work included a walkover of the property, and subsurface test excavations. The walkover identified

foundations, chimney falls, and collapsed structures. Subsurface excavations identified four archeological sites:

- Bealle Hill Site (18PR290), an extension of a previously identified prehistoric site that yielded dense concentrations of prehistoric artifacts. Also, three historic structures and a possible historic cemetery were defined. Additional work was recommended, including remote sensing in the area of the possible cemetery, and additional archeological excavations at the site.
- Belle Oaks I (18PR717), a stand of cedar with associated vegetation interpreted as a possible historic period cemetery. Further work, including remote sensing, was recommended for this site.
- Belle Oaks II (18PR718), a dense accumulation of blank tombstones, sheet metal, canning jars, and is interpreted as a collapsed 20th-century storage structure. The blank tombstones are likely associated with the occupation of the property by a stonecutter. The site was recommended as not significant, so no further work was recommended.
- Belle Oaks III (18PR719), an Archaic Period [dating to years before the present 10,000(BP)–3,000 (BP)] prehistoric site with a cobble hearth on its surface. This site is located in the proposed open space and will not be affected by the proposed development. No further work was recommended at this site.

(3) The Phase II investigation was completed in June 2005 to further define the horizontal and vertical limits of the archeological sites and evaluate whether the sites would be significant for listing at the county, state, or national level. A total of 686 shovel test units and 14 1-by-1 meter (3.28-by-3.28 feet) excavation units were excavated. A total of 2,438 prehistoric artifacts were found, and a small number of historic artifacts were found. In addition, three sites, 18PR290, 18PR717 and 18PR718, were later determined (in consultation with the Maryland Historic Trust) to be a single site to be identified as 18PR290. Of this single site, only those areas identified as Locus 1, Locus 2, and Locus 3, were determined to be significant and worthy of protection.

- *Locus 1* (an area 450' x 400') is located north of the Bellevue Historic Site. This area is identified as a prime location for Archaic Period (10,000-3,000BP) occupation, and the artifacts included stone tools and the stone debris from tool making.
- The site directly south of Bellevue Historic Site (an area 600' x 125') was identified as *Locus 2*. Excavations and a ground-penetrating radar (GPR) survey were conducted in this area. Prehistoric and late-19th- and 20th-century artifacts, and a possible burial pit, were identified here. The GPR identified one anomaly that is a possible burial.

- *Locus 3*, located south of the Bellevue Historic Site (an area 300' x 125'), yielded stone artifacts and Woodland Period (3,000BP- approximately 1,600 AD) prehistoric ceramics.

Historic Preservation

- (1) The preliminary plan accommodates the retention and protection of the three areas of Archeological Site 18PR290 that have been identified as significant by the applicant's archeologist. All three areas will be included within private property and should be protected through archeological conservation easements to ensure long-term preservation in place.
- (2) The preliminary plan provides access to the Bellevue Historic Site in a manner that retains a large portion of its traditional entry lane (from the north). The entry lane will be accessed from the proposed Farmhouse Road cul-de-sac. The portion of the entry lane to be retained will be located within proposed Parcel F, which also includes the majority of Archeological Site 18PR290. The western edge of Archeological Site 18PR290 will be located within proposed Parcel D. The applicant also proposes that along the northern property boundary with the Bellevue Historic Site (84-020), Parcel E will include a 100' limit of disturbance line.
- (3) The applicant's revised plan does not include the location of the "D Bufferyards" required by the Prince George's County Landscape Manual for developing property adjacent to Historic Sites. The Historic Site and the adjacent developing lots are substantially wooded. Nevertheless, proposed lots 1,2 and 3 in Block C, and lot 8 in Block D will require a 40' landscape buffer and a 50' building restriction line adjacent to the Bellevue Historic Site. Both the bufferyard requirements and the current wooded state of the property will ensure substantial screening and privacy for the owner of the Historic Site and the adjacent developing lots. Proposed parcels C and E, adjacent to the Historic Site, are intended to act as buffers for it, and the archeological sites therein, and should not require compliance with the Landscape Manual.
- (4) Based on the significant findings of the archeological investigations, staff initiated contact and facilitated negotiations between the developer, the owner of the Bellevue Historic Site, and a national non-profit organization, The Archeological Conservancy, in an effort to protect all three significant areas in a manner consistent with the Planning Board's archeological initiative.

The Archeological Conservancy is a nationwide non-profit organization dedicated to acquiring and preserving the best of our nation's remaining archeological sites. Founded in 1980, it now has over 23,000 members. The organization's headquarters are in Albuquerque, New Mexico, and its Eastern Regional Office is located in Frederick,

Maryland. Mr. Andrew Stout is the Conservancy's Eastern Regional Director, with responsibilities for acquiring and maintaining archeological sites along the eastern seaboard. The Conservancy protects sites by acquiring the land on which they rest and preserving them for posterity.

Conclusions

- (1) The three areas of Archeological Site 18PR290 identified as significant within the developing property should be protected through a measure consistent with the Planning Board's initiative to encourage preservation in place, as the preferred alternative to disturbance of archeological resources. An appropriate measure would be the transfer of property to an entity or owner capable of ensuring protection in perpetuity.
- (2) Archeological Site 18PR290 (Locus 1): The Archeological Conservancy has agreed to the developer's proposed donation of Parcels B, D and F in order to protect two of the three identified archeological sites. In accepting this donation, the Conservancy will acknowledge both the presence of the existing right-of-way to the Bellevue Historic Site and a 100' limit of disturbance line along the northern property boundary with the Bellevue Historic Site (84-020).
- (3) Archeological Site 18PR290 (Locus 2): The applicant has agreed to transfer and the owner of Bellevue has agreed to accept the ownership of Parcel C to the south of, and Parcel E to the north of and adjacent to the Historic Site's Environmental Setting. Parcel C is larger than the area referenced in the documents identifying two cemeteries historically associated with Bellevue. It is anticipated that Parcels C and E will formally become a part of the Bellevue Historic Site Environmental Setting by formal action of the Historic Preservation Commission.

Historic Preservation Commission Recommendations

At its July 25, 2005 meeting, the Historic Preservation Commission voted to recommend to the Planning Board the following conditions to ensure the long-term preservation of the identified archeological sites within the developing property:

1. Prior to the issuance of the first building permit for the Belle Oak Estates subdivision, the applicant, his heirs, successors or assigns shall:
 - a. Transfer ownership of Parcels B, D and F to The Archeological Conservancy in order to provide for the perpetual protection of this portion of Archeological Site 18PR290 (including Locus 1). This transfer acknowledges: (1) the existing right-of-way to the Bellevue Historic Site (84-020) that traverses Parcel F; and (2) the 100' limit of disturbance line within Parcel E along the northern property boundary with the Bellevue Historic Site (84-020).

- b. Transfer ownership of Parcels C and E to the owner of the Bellevue Historic Site (84-020) in order to provide for the perpetual protection of that portion of Archeological Site 18PR290 known as Locus 2, and to ensure its continued association and conveyance with the Historic Site.

BE IT FURTHER RESOLVED, that an appeal of the Planning Board's action must be filed with Circuit Court for Prince George's County, Maryland within thirty (30) days following the adoption of this Resolution.

* * * * *

This is to certify that the foregoing is a true and correct copy of the action taken by the Prince George's County Planning Board of The Maryland-National Capital Park and Planning Commission on the motion of Commissioner Vaughns, seconded by Commissioner Clark, with Commissioners Vaughns, Clark, Eley and Parker voting in favor of the motion, with Commissioner Squire absent at its regular meeting held on Thursday, January 11, 2007, in Upper Marlboro, Maryland.

Adopted by the Prince George's County Planning Board this 15th day of February 2007.

R. Bruce Crawford
Executive Director

By Frances J. Guertin
Planning Board Administrator

RBC:FJG:TL:bjs